

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

GARY VARGAS EVANS

No. 19 CR 849

Judge Matthew F. Kennelly

**GOVERNMENT’S RESPONSE TO  
DEFENDANT’S AMENDMENT 821 MOTION**

Defendant’s motion should be denied. The crux of defendant’s argument is that he qualifies for an adjustment under revised Guideline § 4A1.1(e), which in his view should result in his criminal history points being reduced by two (moving him from Criminal History Category II to I). *Id.* Defendant is mistaken.

Under the previous Guidelines Manual, two criminal history points, commonly referred to as “status points,” were added under Guideline § 4A1.1(d) if the defendant committed the instant offense “while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status.” As amended, the “status points” provision under redesignated § 4A1.1(e) does not apply to anyone who presents 6 or fewer criminal history points under the other portions of § 4A1.1. Further, under the new provision, a defendant who presents 7 or more criminal history points only receives 1 additional criminal history point based on status, not 2.

Defendant is not entitled to any relief here because his criminal history score did not include any “status points” under Section 4A1.1(d). Instead, defendant’s

criminal history score was based on one three-point conviction, which placed him in Criminal History Category II. PSR, Dkt. 89 ¶¶ 34-35. Accordingly, even if defendant were sentenced today, his Guidelines range would be the same. He is therefore not entitled to any reduction of sentence. 18 U.S.C. 3582(c)(2); Guideline § 1B1.10.

Respectfully submitted,

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